

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 011 – RETIRMENT CREDIT**

459-011-0110

Credit for Military Service under ORS 238.156(3)

(1) Definitions. For purposes of this rule:

(a) “Armed Forces” means the:

(A) Army;

(B) Navy;

(C) Air Force;

(D) Marine Corps; *[and]*

(E) Coast Guard~~[.]~~; and

(F) Space Force

(b) “Employee” means an individual employed by a participating public employer in a qualifying position, as defined in ORS 238.005 and who is not excluded from the definition of employee as set forth in ORS 238.005.

(c) “Employer” means the legal entity that employed an individual at the time that individual left for military service. For purposes of this rule, the state of Oregon is a single legal entity. Each separate school district is a separate legal entity.

(d) “Military service” means the period during which the employee is in active duty service in the Armed Forces.

(e) “Salary” means the employee’s rate of pay, for contribution and benefit calculation purposes, at the time the employee entered or reentered military service.

(2) Retirement credit under ORS 238.156(3).

(a) Eligibility. An employee shall be eligible for the benefits of this rule if:

(A) The employee leaves employment to perform military service;

(B) The employee returns to employment with the same employer after other than dishonorable discharge from military service and within the time limits specified in ORS 238.156(3)(b); and

(C) The employee is either not entitled to or would receive a lower benefit under the provisions of OAR 459-011-0100.

1 (b) Credit for military service. An employee who meets the eligibility requirements of
2 subsection (a) of this section shall be credited with the amount of retirement credit the
3 employee would have accrued if he or she had remained in employment with the employer
4 during the period of military service, provided that all required contributions have been
5 made.

6 (3) Contributions for the period of military service. To receive credit for the period of
7 military service, contributions must be made to the Fund in accordance with the following:

8 (a) Contributions must be made in a lump sum payment as specified in ORS 238.156(3)(c);

9 (b) Such lump sum payment must equal six percent of the salary that would have been paid
10 to the employee had the employee remained in employment with the employer during the
11 period of military service based on the employee's salary rate at the time the employee
12 entered or reentered military service;

13 (c) Any individual, agency, or organization may pay the amount specified in this
14 subsection on behalf of the employee; and

15 (d) Any contributions made under this section shall be added to the employee's regular
16 account and in all respects shall be considered as though made by payroll deduction.

17 (e) Contributions made under this rule may not include nor be credited with earnings or
18 losses that would have been credited during the period of military service.

19 (f) The amount of the lump sum payment required under subsection (b) of this section must
20 be reduced by the amount of employee contributions attributable to differential wage
21 payments received by the employee for the period of military service.

22 (A) Employee contributions attributable to differential wage payments received by the
23 employee for the period of military service must be considered employee contributions
24 under subsection (2)(b) of this rule if the employee submits the lump sum payment as
25 reduced under this subsection.

26 (B) Employee contributions attributable to differential wage payments paid to the
27 employee during the period of military service must be credited with earnings and losses
28 that would have been credited during the period of military service.

29 (4) Employer contributions. Any employer contributions associated with credit for military
30 service under this rule must be made as directed by PERS in accordance with ORS
31 238.225.

1 (5) The effective date of this rule is January 1, 2009.
2 Statutory/Other Authority: ORS 238.650 & 238.156
3 Statutes/Other Implemented: ORS 238.156
4 History:
5 PERS 1-2009, f. & cert. ef. 2-12-09
6 PERS 19-2005, f. 11-1-05, cert. ef. 1-1-06
7 PERS 2-2004, f. & cert. ef. 1-22-04
8 PERS 1-1996, f. & cert. ef. 3-26-96, Renumbered from 459-010-0155
9 PER 8, f. 12-15-55
10